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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
9 WESTERN DIVISION  
10

11 ) No. CV VBK  
12 )  
13 Plaintiff, ) ORDER RE CIVIL TRIAL  
14 )  
15 v. ) 1. Cut-Off Date for Joining  
16 ) Parties or Amending  
17 ) Pleadings:  
18 ) 2. Cut-Off Date for Election of  
19 Defendant. ) Jury Trial:  
20 ) 3. Discovery Cut-Off Date:  
21 )  
22 ) 4. Settlement Procedure  
23 ) Selection Date Cut-Off:  
24 )  
25 ) 5. Expert Witness Disclosure  
26 ) Cut-Off Date:  
27 ) 6. Settlement Conference Cut-  
28 ) Off Date:  
 ) 7. Expert Discovery Cut-Off  
 ) Date:  
 ) 8. Dispositive Motion Cut-Off  
 ) Date:  
 ) 9. Motion Hearing Date: , 2011  
 ) at 10:00 a.m.  
 ) 10. Pre-Trial Conference Date:  
 ) , 2011 at 10:00 a.m.  
 ) 11 Trial Date: , 2011 at 9:00  
 ) a.m.

26  
27 This action has been assigned to the calendar of the Honorable  
28 Victor B. Kenton, Courtroom 590, Roybal Federal Building, 255 East

1 Temple Street, Los Angeles, California 90012.

2 In accordance with General Order 10-07, this case is designated for  
3 electronic filing. Counsel are to familiarize themselves with General  
4 Order 10-07 and must comply with all requirements. [Counsel shall  
5 electronically file all documents by 4:00 pm on or before the due date.]  
6 [Courtesy copies of the following electronically filed documents, with  
7 the Notice of Electronic Filing attached, shall either (a) be delivered  
8 to the Magistrate Judge's Chambers no later than 4:00 pm on the next  
9 court day, or (b) shall be mailed to Magistrate Judge Victor B. Kenton  
10 at the Roybal Federal Building, 255 East Temple Street, Los Angeles, CA  
11 90012 no later than the next court day.]:

- 12 1. For any motion to dismiss the Complaint or motion for summary  
13 judgment: the motion and supporting papers, the opposition  
14 papers, and the reply papers.
- 15 2. The Answer.
- 16 3. For any other dispositive motion and supporting papers, the  
17 opposition papers, and the reply papers.

18  
19 In order to facilitate the just, speedy, and inexpensive  
20 determination of this case, the parties shall comply with the following  
21 instructions.

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3  
4 **Pre-Trial and Trial Dates**

5 1. The Court has ordered the dates as indicated above and  
6 described as follows:

7 a. Joining Parties or Amending Pleadings. The Court has  
8 established a cut-off date for joining parties or amending pleadings.  
9 All motions to join other parties or to amend the pleadings shall be  
10 filed and served on, or prior to, the cut-off date. All motions to join  
11 other parties or amend the pleadings shall be noticed for hearing. All  
12 unserved parties are subject to dismissal at the time of the Pre-Trial  
13 Conference pursuant to Local Rule 16-7.1.

14 b. Discovery Cut-Off. This is the last date to complete  
15 discovery.

16 c. Motion Filing Cut-Off. The Court hears motions on  
17 Tuesdays at 10:00 a.m. The motion cut-off date is the last day motions  
18 may be filed. The cut-off date applies to all motions except motions in  
19 limine.

20 Motions in limine, i.e., those pertaining only to evidentiary  
21 matters, shall be filed in accordance with the requirements of Local  
22 Rule 7. Parties must notice motions in limine for hearing no later than  
23 the Monday eight days before the Tuesday trial date. If that Monday is  
24 a holiday, the motions must be noticed for hearing on the preceding  
25 Monday. Motions in limine may not be used as a substitute for a summary  
26 judgment motion.

27 d. Dates for hearing on motions in limine will be set after  
28 dispositive motions have been heard or notice has been given that no

1 motions will be filed. Each party appearing in this action shall be  
2 represented at the Pre-Trial Conference and at all pre-trial meetings by  
3 the lead trial counsel. Counsel should be prepared to discuss  
4 streamlining the trial, including bifurcation, presentation of testimony  
5 by deposition excerpts, time limits, stipulations as to undisputed  
6 facts, and qualification of experts by admitted resumes.

7 e. Trial. Trials are conducted Tuesday through Friday, from  
8 9:30 a.m. to 4:30 p.m. Counsel should plan to meet with the Court at  
9 9:00 a.m. on the first day of trial. Jury selection generally takes two  
10 hours. Counsel must be ready to proceed with opening statements  
11 immediately thereafter.

#### 12 13 Discovery

14 2. Counsel shall initiate all discovery other than depositions at  
15 least forty-five (45) days prior to the cut-off date. The Court will  
16 not approve stipulations between counsel which permit responses to be  
17 served after the cut-off date, except in unusual circumstances and for  
18 good cause shown.

19 3. Counsel shall commence all depositions at least five (5)  
20 working days prior to the cut-off date. **Counsel shall lodge all**  
21 **original depositions to be used in trial with the Courtroom Deputy Clerk**  
22 **on the first day of trial.**

#### 23 24 Settlement

25 In conformity with the Local Rules, counsel shall file the  
26 settlement procedure selection by the date given by the Court.  
27 Available settlement alternatives for consideration include:

28 (1) a settlement conference before an available Magistrate Judge

1 willing to conduct the conference. Parties should contact the  
2 Courtroom Deputy Clerk, Roxanne Horan, at 213-894-1831, and  
3 provide the name of the requested Magistrate Judge. The  
4 Courtroom Clerk will then contact the requested Magistrate  
5 Judge's Courtroom Clerk to determine availability and dates.  
6 (Note: the Court does not participate in settlements of cases  
7 on its own docket.)

8 (2) a settlement conference or mediation before an attorney  
9 selected from the Attorney Settlement Panel (list available  
10 from the Court's Website);

11 (3) the employment by the parties of a private judge, mediator or  
12 arbitrator.

13 The parties in every case must elect a settlement procedure,  
14 pursuant to Local Rule 16-14.4. Given the high costs of litigation and  
15 the enormous commitment of resources that a trial requires, the Court  
16 urges the parties to explore every option for resolving their disputes  
17 short of trial.

#### 18 19 **Preparation for the Pre-Trial Conference**

20 6. Compliance with the requirements of Local Rule 16 is  
21 mandatory. Counsel shall submit carefully prepared Memoranda of  
22 Contentions of Fact and Law (which may also serve as the trial briefs)  
23 and Proposed Pre-Trial Conference Order in accordance with the  
24 provisions of Local Rules 16-2.8 through 16-6. The Proposed Pre-Trial  
25 Conference Order shall conform to the example set forth in Appendix A to  
26 the Local Rules, modified as necessary to comply with this order.

27 7. The Memoranda of Contentions of Fact and Law, Exhibit Lists,  
28 and Witness Lists shall be served and filed no later than twenty-one

(21) calendar days before the Pre-Trial Conference. The Proposed Pre-Trial Conference Order shall be lodged fourteen (14) calendar days before the Pre-Trial Conference. Adherence to time limits is essential to in-chambers preparation.

8. **Proposed Pre-Trial Conference Order.**

a. The Proposed Pre-Trial Conference Order must contain a Table of Contents.

b. Under paragraph 1, list each claim, counterclaim, or defense that has been dismissed or abandoned.

c. The factual issues in dispute should track the elements of a claim or defense upon which the jury would be required to make findings. Counsel should state issues in ultimate fact form, not as evidentiary fact issues (i.e., "was the defendant negligent," "was defendant's negligence the proximate cause of plaintiff's injury;" not "was the plaintiff standing on the corner of 5<sup>th</sup> and Spring at 10:00 a.m. on May 3").

d. Issues of law should state legal issues upon which the Court will be required to rule after the Pre-Trial Conference, including during the trial, and should not list ultimate fact issues to be submitted to the trier of fact.

e. If expert witnesses are to be called at trial, each party must list and identify its respective expert witnesses. Failure of a party to list and identify an expert witness in the Proposed Pre-Trial Conference Order shall preclude a party from calling that expert witness at trial.

9. **Summary of Witness Testimony and Time Estimates**

Counsel shall prepare a list of their witnesses, including a brief

summary (two to three paragraphs) of each witness's expected testimony and an estimate of the length of time needed for direct examination. Counsel shall exchange these lists with opposing counsel. **Counsel shall jointly file a single list of witness testimony summaries, including estimates for direct examination of their own witnesses and estimates for cross-examination of opposing witnesses.** These statements shall be filed at the time counsel lodge the Proposed Pre-Trial Conference Order, i.e., fourteen (14) days before the Pre-Trial Conference.

### Exhibits

10. Counsel are to assemble their exhibits by placing them in 3-ring binders, with each exhibit separated by a tabbed divider on the right side. Counsel shall provide original exhibits for the Courtroom Deputy Clerk and a duplicate set for the judge. The original exhibits shall be tagged with the appropriate exhibit tags in the upper and lower right corner of the first page of each exhibit. Each binder shall contain a Table of Contents.

Counsel must comply with Local Rule 26-4 when numbering the exhibits. The Clerk's Office, Room G-8, 312 North Spring Street, Los Angeles, can supply counsel with appropriate exhibit tags.

11. The Court requires the following to be submitted to the Courtroom Deputy Clerk on the first day of trial:

a. The original exhibits with the Court's exhibit tags. Plaintiff shall use yellow tags; defendant shall use blue tags. Each tag shall be stapled to the front of the exhibit on the upper right corner and include the case number, case name, and exhibit number.

b. One bench book with a copy of each exhibit for the Court's use, tabbed as described above; a copy of the witness list(s).

1 c. Three (3) copies of exhibit lists.

2 d. Three (3) copies of witness lists in the order in which  
3 the witnesses will be called to testify.

4 12. All counsel are to meet no later than ten (10) calendar days  
5 before trial to discuss and agree to the extent possible on issues  
6 including foundation, waiver of the best evidence rule, and which  
7 exhibits may be received into evidence at the start of trial.

8  
9 **Trial Preparation for Jury Trials**

10 13. Fourteen (14) calendar days prior to counsel's Rule 16-2 pre-  
11 trial meeting, counsel shall exchange proposed jury instructions  
12 (general and special) and special verdict forms (if applicable). Seven  
13 (7) calendar days prior to the Rule 16-2 meeting, counsel shall exchange  
14 any objections to the instructions and special verdict forms. Prior  
15 to, or at the time of the Rule 16-2 meeting, counsel shall meet and  
16 confer with the goal of reaching agreement on one set of joint jury  
17 instructions and one special verdict form.

18 14. The Court directs the parties to make every attempt to agree  
19 upon the jury instructions before submitting them to the Court. The  
20 Court expects counsel to agree on the substantial majority of jury  
21 instructions, particularly when pattern instructions provide a statement  
22 of applicable law. When the Manual of Model Civil Jury Instructions for  
23 the Ninth Circuit provides a version of an applicable requested  
24 instruction, the parties should submit the most recent version of the  
25 model instruction, modified as necessary to fit the facts of the case  
26 (e.g., inserting names of parties to whom instruction applies). Where  
27 language appears in brackets in the model instruction, counsel shall  
28 select the appropriate text and eliminate the inapplicable bracketed

1 text. Where California law applies, counsel are directed to use  
2 California Jury Instructions -- Civil (8<sup>th</sup> ed.)(“BAJI”). If neither of  
3 the above sources is applicable, counsel are directed to use the  
4 instructions from O’Malley, Grenig & Lee (formerly Devitt, et al),  
5 Federal Jury Practice and Instructions (latest edition). Each requested  
6 jury instruction shall cover only one subject or principle of law and  
7 shall be numbered and set forth in full on a separate page, citing the  
8 authority or source of the requested instruction (except for the “clean”  
9 jury copy discussed below).

10 15. When the parties disagree on an instruction, the party  
11 opposing the instruction must attach a short statement (one to two  
12 paragraphs) supporting the objection, and the party submitting the  
13 instruction must attach a short statement supporting the instruction.  
14 Each statement should be on a separate page and should follow directly  
15 after the disputed instruction.

16 16. The parties ultimately must submit one document or, if the  
17 parties disagree over any proposed jury instructions, two documents. If  
18 the parties submit two documents, those documents shall consist of: (1)  
19 a set of Joint Proposed Jury Instructions and (2) a set of Disputed Jury  
20 Instructions, along with reasons supporting and opposing each disputed  
21 instruction in the format set forth in paragraph 15.

22 17. The parties must file proposed jury instructions seven (7)  
23 calendar days before the Pre-Trial Conference. If the court is closed  
24 that day, counsel shall file the proposed instructions the preceding  
25 Friday. No later than 5:00 p.m. on the date such instructions are due,  
26 the parties must submit conformed courtesy copies to Judge Kenton’s  
27 chambers. Counsel shall also provide the Court with a 3½ inch diskette  
28 compatible with WordPerfect 6.1 or 7.0 containing the proposed jury

instructions, in accordance with this paragraph and paragraph 18.

18. The Court will send a copy of the instructions into the jury room for the jury's use during deliberations. Accordingly, in addition to the file copies described above, the diskette submitted with the jury instructions shall contain a "clean set" of Joint Proposed and/or Disputed Jury Instructions, containing only the text of each instruction set forth in full on each page, with the caption "Court's Instruction No. \_\_\_" (eliminating titles, supporting authority, indication of party proposing, etc.).

19. An index page shall accompany all jury instructions submitted to the Court. The index page shall indicate the following:

- a. The number of the instruction;
- b. A brief title of the instruction;
- c. The source of the instruction and any relevant case citations; and
- d. The page number of the instruction.

EXAMPLE:

<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page</u>
1	Trademark-Defined (15 U.S.C. §1127)	9 <sup>th</sup> Cir. 15.3.2	7

20. Along with the jury instructions, counsel shall submit any necessary special verdict form seven (7) calendar days before the Pre-Trial Conference.

21. Counsel may, but need not, submit brief proposed voir dire questions for the jury seven (7) calendar days before the Pre-Trial Conference. The Court will conduct its own voir dire after consulting

1 any proposed voir dire submitted by counsel.

2 22. Counsel shall prepare a joint statement of the case for the  
3 Court to read to the prospective panel of jurors prior to the  
4 commencement of voir dire. The statement should not exceed one page.  
5 The statement shall be filed with the Court seven (7) calendar days  
6 before the Pre-Trial Conference.

7  
8 **Trial Preparation for Court Trials**

9 23. Fourteen (14) calendar days before the trial date, each party  
10 shall prepare and serve on opposing counsel copies of the proposed  
11 Findings of Fact and Conclusion of Law. Each party shall review the  
12 other party's proposed Findings and Conclusions and make such changes in  
13 the party's own proposed Findings and Conclusions as necessary following  
14 such review.

15 24. Seven (7) calendar days before the trial date, each party  
16 shall lodge two copies of its proposed Findings of Fact and Conclusions  
17 of Law with the Court together with a copy of diskette. Each party  
18 shall serve other parties if changes have been made. The parties shall  
19 be prepared to submit to the Court, and to exchange among themselves,  
20 supplemental Findings of Fact and Conclusions of Law during the course  
21 of the trial.

22 **IT IS SO ORDERED.**

23  
24 DATED: \_\_\_\_\_

\_\_\_\_\_  
VICTOR B. KENTON  
UNITED STATES MAGISTRATE JUDGE